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NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

DMR

CHRISTOPHER WOOLSEY,

Plaintiff,

vs.

CREDIT BUREAU COLLECTION
 SERVICES, INC.,

Defendant.

Case No.

CV-11 4644

COMPLAINT FOR VIOLATION
 OF FEDERAL FAIR DEBT
 COLLECTION PRACTICES ACT
 AND ROSENTHAL FAIR DEBT
 COLLECTION PRACTICES ACT

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (hereinafter "FDCPA"), and the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code §1788, *et seq.* (hereinafter "RFDCPA"), both of which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

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2
3 **II. JURISDICTION**

4 2. Jurisdiction of this Court arises under 15 U.S.C. §1692k (d).

5 **III. PARTIES**

6
7 3. Plaintiff, Christopher Woolsey ("Plaintiff"), is a natural person
8 residing in San Francisco county in the state of California, and is a "consumer" as
9 defined by the FDCPA, 15 U.S.C. §1692a(3) and is a "debtor" as defined by Cal
10 Civ Code §1788.2(h).
11

12 4. At all relevant times herein, Defendant, Credit Bureau Collection
13 Services, Inc., ("Defendant") was a company engaged, by use of the mails and
14 telephone, in the business of collecting a debt from Plaintiff which qualifies as a
15 "debt," as defined by 15 U.S.C. §1692a(5), and a "consumer debt," as defined by
16 Cal Civ Code §1788.2(f). Defendant regularly attempts to collect debts alleged to
17 be due another, and therefore is a "debt collector" as defined by the FDCPA, 15
18 U.S.C. §1692a(6), and RFDCPA, Cal Civ Code §1788.2(c).
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22 **IV. FACTUAL ALLEGATIONS**

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24 5. At various and multiple times prior to the filing of the instant
25 complaint, including within the one year preceding the filing of this complaint,
26 Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.
27
28

1 6. On at least one occasion, Defendant threatened that failure to pay the
2 alleged debt would result in the seizure and/or garnishment of Plaintiff's wages,
3 where Defendant did not intend to take such action or such action was lawful as
4 there has been no judgment entered against Plaintiff to date.
5

6 7. On at least one occasion, Defendant falsely represented that failure
7 to pay the alleged debt would result in a legal action against Plaintiff.
8

9 8. To date, no action has been filed by Defendant against Plaintiff for
10 failure to pay an alleged debt.
11

12 9. Defendant engaged in conduct was to harass Plaintiff in connection
13 with an attempt to collect an alleged debt, including but not limited to, threatening
14 Plaintiff of a legal action and seizure and/or garnishment of Plaintiff's property,
15 where no such action was intended to be taken.
16
17

18 10. Defendant's conduct violated the FDCPA and the RFDCPA in
19 multiple ways, including but not limited to:
20

21 a) Falsely representing or implying that nonpayment of
22 Plaintiff's debt would result in the seizure, garnishment,
23 attachment, or sale of Plaintiff's property or wages,
24 where such action is not lawful or Defendant did not
25 intend to take such action (§1692e(4));

26 b) Threatening to take an action against Plaintiff that
27 cannot be legally taken or that was not actually intended
28 to be taken (§1692e(5));

- 1 c) Engaging in conduct the natural consequence of which
2 is to harass, oppress, or abuse Plaintiff (§1692d));
- 3
- 4 d) Falsely representing that a legal proceeding has been, is
5 about to be, or will be instituted unless payment of a
6 consumer debt is made (Cal Civ Code §1788.13(j));
- 7 e) Threatening Plaintiff that nonpayment of Plaintiff's debt
8 may result in the arrest of Plaintiff or the seizure,
9 garnishment, attachment or sale of any property or the
10 garnishment or attachment of wages of Plaintiff, where
11 such action was not in fact contemplated by the debt
12 collector and permitted by the law (Cal Civ Code
13 §1788.10(e)); and
- 14 f) Threatening to take an action against Plaintiff that is
15 prohibited by § 1788 of the California Civil Code (Cal
16 Civ Code §1788.10(f)).

17 11. As a result of the above violations of the FDCPA and RFDCPA
18 Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal
19 humiliation, embarrassment, mental anguish and emotional distress, and
20 Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages,
21 and costs and attorney's fees.

22
23 **COUNT I: VIOLATION OF FAIR DEBT**
24 **COLLECTION PRACTICES ACT**
25

26 12. Plaintiff reincorporates by reference all of the preceding paragraphs.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA;
- B. Actual damages;
- C. Statutory damages;
- D. Costs and reasonable attorney's fees; and,
- E. For such other and further relief as may be just and proper.

**COUNT II: VIOLATION OF ROSENTHAL
FAIR DEBT COLLECTION PRACTICES ACT**

13. Plaintiff reincorporates by reference all of the preceding paragraphs.

14. Further, §1788.17 of the RFDCPA mandates that every debt collector collecting or attempting to collect a consumer debt shall comply with the provisions of Sections 1692b to 1692j, inclusive, of, and shall be subject to the remedies in Section 1692k of, Title 15 of the United States Code statutory regulations contained within the FDCPA, *15 U.S.C. §1692d, and §1692d(5)*.

15. To the extent that Defendant's actions, counted above, violated the RFDCPA, those actions were done knowingly and willfully.

PRAYER FOR RELIEF


WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the RFDCPA;
- B. Actual damages;
- C. Statutory damages for willful and negligent violations;
- D. Costs and reasonable attorney's fees,
- E. For such other and further relief as may be just and proper.

PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

Respectfully submitted this 15th day of September, 2011.

By:


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